

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

MARZONO SHELLY,)	
)	
Petitioner,)	
)	
v.)	No. 2:20-cv-00690-JPH-DLP
)	
RICHARD BROWN,)	
)	
Respondent.)	

**Order Granting Respondent's Motion to Dismiss
and Directing Entry of Final Judgment**

Marzono Shelly commenced this 28 U.S.C. § 2254 habeas corpus action on December 28, 2020, challenging discipline he received in prison disciplinary case number WVE 20-07-0050 on August 5, 2020. Dkt. 2. The respondent moves to dismiss this action as moot, showing that on March 23, 2021, while this action was pending, the Indiana Department of Correction Final Reviewing Authority designated Mr. Shelly's disciplinary case for rehearing and vacated the sanctions. Dkt. 9 (citing dkt. 9-2). Mr. Shelly has responded to the motion to dismiss but does not address the sanctions being vacated.

"A case becomes moot when it no longer presents a case or controversy under Article III, Section 2 of the Constitution." *Eichwedel v. Curry*, 700 F.3d 275, 278 (7th Cir. 2012). "In general a case becomes moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." *Id.* (citation and quotation marks omitted). A federal court may issue a writ of habeas corpus pursuant to 28 U.S.C. § 2254 only if it finds the applicant "is *in custody* in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a) (emphasis added). Therefore, a habeas action becomes moot if the Court can no longer


"affect the duration of [the petitioner's] custody." *White v. Ind. Parole Bd.*, 266 F.3d 759, 763 (7th Cir. 2001).

Here, the uncontested record shows that Mr. Shelly's sanctions have been vacated and thus can no longer affect the duration of his custody. Accordingly, Mr. Shelly's petition for a writ of habeas corpus is moot. *See id.* An action which is moot must be dismissed for lack of jurisdiction. *See Diaz v. Duckworth*, 143 F.3d 345, 347 (7th Cir. 1998).

The respondent's motion to dismiss, dkt. [9], is **granted**. This action is **dismissed** without prejudice and final judgment consistent with this Order shall now issue.

SO ORDERED.

Date: 5/3/2021


James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

Marzono Shelly
951801
Wabash Valley Correctional Facility - Inmate Mail/Parcels
Electronic Service Participant – Court Only

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